

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE

BLAKE O'BRYAN SWANN,

Petitioner,

v.

ED GRAYBEAL,

Respondent.

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No.: 2:21-CV-82-RLJ-CRW

**MEMORANDUM OPINION**

Petitioner, an inmate proceeding pro se in a federal habeas corpus action pursuant to 28 U.S.C. § 2254, has filed a motion seeking to voluntarily dismiss the petition [Doc. 8]. Respondent has failed to respond to the motion, and the deadline to do so has passed. *See* E.D. Tenn. L.R. 7.1.

Rule 41(a)(1) of the Federal Rules of Civil Procedure allows a petitioner to voluntarily dismiss an action without leave of court before the adverse party serves an answer or a motion for summary judgment. *See* Fed. R. Civ. P. 41(a)(1); *Williams v. Caruso*, No. 2:07-CV-11291, 2008 WL 544954, at \*1 (M.D. Mich. Feb. 25, 2008) (finding Rule 41 fully applies to federal habeas petitions). Respondent has not yet responded to the petition, and therefore, dismissal is appropriate under Rule 41(a)(1). Accordingly, Petitioner's motion for voluntary dismissal [Doc. 8] will be **GRANTED**, and this action will be **DISMISSED WITHOUT PREJUDICE**.

**AN APPROPRIATE JUDGMENT ORDER WILL ENTER.**

**IT IS SO ORDERED.**

ENTER:

s/ Leon Jordan  
United States District Judge